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SUMMARY OF 2003 LANDLORD-TENANT LEGISLATION

January, 2004

This summarizes landlord-tenant legislation enacted by the California Legislature in 2003. These new laws took effect on January 1, 2004. They are explained more fully in the related publication, *California Tenants -- A Guide to Residential Tenants' and Landlords' Rights and Responsibilities* 2003 edition with 2004 updates.

AB 647 (Nunez), Stats. 2003, ch. 109: California law allows a tenant to sue a landlord for up to \$1,000 in damages if the landlord collects or demands rent on an uninhabitable dwelling. The tenant may seek damages after the dwelling has been inspected by a housing official, the official has issued a notice of violation to the landlord, and the violation has existed for 60 days after the notice.

This new law makes a landlord liable, in addition, if the landlord issues a notice of rent increase or an eviction notice following the housing official's inspection and notice of violation. The new law adds health and safety violations to the list of defects in a dwelling that may result in liability. The new law reduces to 35 days the period of time that the violation must continue to exist after the notice of violation. The new law also increases to \$5,000 the upper limit on damages that a tenant can collect in the court action, and permits the recovery of court costs.

(For more information, see the “**DEALING WITH PROBLEMS**,” “*Lawsuit for damages as a remedy*” section of *California Tenants* updated for 2004.)

Also under this new law, if a landlord brings an eviction action against a tenant for nonpayment of rent, and the rental unit is found to be uninhabitable, the landlord is liable to the tenant for reasonable attorneys' fees and court costs.

AB 1059 (Lieber), Stats. 2003, ch. 542: This new law prohibits a landlord from seeking to influence a tenant to move from a rental unit by (1) engaging in conduct that constitutes theft or extortion, (2) using threats, force or menacing conduct that interferes with the tenant's right to quiet enjoyment of the rental, or (3) committing a significant and intentional violation of the rules that limit the landlord's right to enter the rental. The landlord may give the tenant certain warning notices and explanations without violating this new law. A tenant may sue a landlord who violates this new law for civil penalties of up to \$2,000 for each violation.

(For more information, see the “**DEALING WITH PROBLEMS**,” “**INFLUENCING THE TENANT TO MOVE**” section of *California Tenants* updated for 2004.)

This new law also increases to \$2,000 the maximum punitive damages that a court can award a tenant against a landlord who has committed unlawful retaliatory acts against the tenant.

AB 1384 (Maddox), Stats. 2003, ch. 576, SB 90 (Torlakson) Stats. 2003, ch. 335: California law requires a landlord to do one of two things with a tenant's security deposit within three weeks after the tenant moves: the landlord must (1) return the tenant's security deposit, or (2) send the tenant an itemized statement showing the amounts of any deductions from the deposit and the reasons for the deductions, together with a refund of any amounts not deducted.

This new law clarifies that three-weeks means 21 calendar days. It also requires the landlord to send the tenant copies of receipts for the charges that the landlord incurred to repair or clean the rental unit and that the landlord deducted from the tenant's security deposit. The landlord must send the receipts with the itemized statement. The new law sets out rules for the landlord to follow when, for example, the repairs cannot be completed or the landlord does not have the receipts within the 21 days. The landlord is not required to provide receipts if the tenant waives the right to receive them or if the repairs cost less than \$126, unless the tenant requests receipts after receiving the itemized statement.

California law also requires the landlord to perform an initial inspection of the rental unit before the tenant moves out, if the tenant requests it. This new law clarifies that the landlord is not required to perform an initial inspection if the landlord has served the tenant with a three-day notice (an eviction notice) because the tenant failed to pay the rent, violated a provision of the lease or rental agreement, materially damaged the property, committed a nuisance, or used the property for an unlawful purpose.

(For more information, see the **"MOVING OUT," "REFUNDS OF SECURITY DEPOSITS"** section of *California Tenants* updated for 2004.)

SB 345 (Kuehl), Stats. 2003, ch. 787: California law limits the circumstances under which a landlord may enter a tenant's rental unit. For example, a landlord who wants to enter a rental to show it to a lender or contractor normally must first give the tenant reasonable advance written notice of entry and may enter only during normal business hours. This new law requires the landlord's written notice to state the date, approximate time and purpose of entry. The new law also allows the landlord and tenant to agree orally that the landlord will enter to make repairs or provide services, and states other exceptions to the advance written notice requirement.

(For more information, see the **"LIVING IN THE RENTAL UNIT," "WHEN CAN THE LANDLORD ENTER THE RENTAL UNIT?"** section of *California Tenants* updated for 2004.)

Before this new law took effect, a Court Clerk could not allow access to court records in eviction actions for 60 days following the date the complaint was filed, except, for example, to one of the parties or their attorney. Under this new law, a court clerk cannot allow access to court records in an eviction action *at any time* if the defendant (the tenant) prevails in the action within 60 days after the complaint is filed.

California law requires that local housing authorities file annual reports with the Department of Housing and Community Development. This new law requires that these reports include specified information on terminations of tenancies of victims of domestic violence in housing authority units.

Finally, this new law revises requirements related to service of the landlord's complaint in an eviction action.

Prepared by: Division of Legal Affairs, Legal Services Unit, January, 2004